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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,233	07/29/2005	Trevor Graham Blease	118989-04367868	2726
20583	7550	04/03/2009	EXAMINER	
JONES DAY			METZMAIER, DANIEL S	
222 EAST 41ST ST			ART UNIT	
NEW YORK, NY 10017			PAPER NUMBER	
			1796	
			MAIL DATE	
			DELIVERY MODE	
			04/03/2009	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,233

Applicant(s)

BLEASE, TREVOR GRAHAM

Examiner

Daniel S. Metzmaier

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 19-29 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19, 24-25 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zirnstein et al, US 6,365,637. Zirnstein et al (abstract; column 2, lines 1 et seq; column 9, line 18 et seq; examples 12 and 13; and claims) disclose ester and amides comprising polyethylene glycol and dimer acids as solubilizing agents for cosmetics and pharmaceuticals including fungicides. Fungicides are deemed to read on applicants' claims 16-18 to pesticides and agrochemically active materials. The Zirnstein et al solubilizing agents read on claim 19 and are taught as useful in dispersing insoluble materials including dyes and fungicides.

Zirnstein et al differs from the claims in the exemplified composition employing the active agent as claimed.

Zirnstein et al (column 12, lines 31 et seq) clearly contemplates agrochemicals including pesticides and herbicides. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention to employ the dispersants of Zirnstein et al in the formation of a solid agrochemical dispersion.

3. Claims 19-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zirnstein et al, US 6,365,637, in view of Stühler et al, US 4,853,430

Zirnstein et al (abstract; column 2, lines 1 et seq; column 9, line 18 et seq; examples 12 and 13; and claims) disclose ester and amides comprising polyethylene glycol and dimer acids as solubilizing agents for cosmetics and pharmaceuticals including fungicides. Fungicides are deemed to read on applicants' claims 16-18 to pesticides and agrochemically active materials. The Zirnstein et al solubilizing agents read on claim 19 and are taught as useful in dispersing insoluble materials including dyes and fungicides.

Zirnstein et al differs from the claims in the exemplified composition employing the dispersing agents of 20-21 and 25-27 as claimed.

Stühler et al (abstract; column 1, lines 50 et seq; examples and claims) disclose polyesters of dimer acids and polyalkylene glycol including polyethylene glycol related to the Zirnstein et al dispersing agents. Said polyesters are disclosed as rheological agents having utility in cosmetic, pharmaceutical and industrial products. Said products include hair care and skin care products as well as cosmetic and industrial cleaning products.

These references are combinable because they teach structurally related agents and materials dispersed by said agents. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention to employ the polyesters of Stühler et al in the agrochemical compositions of Zirnstein et al et al for the advantage of improving the dispersibility of the particles taught in the Zirnstein et al and Stühler et al

references and for the advantageous improved rheology rendering particles more dispersible and mitigating settling.

Response to Arguments

4. Applicant's arguments with respect to claims 19-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (571) 272-1089. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Daniel S. Metzmaier/
Primary Examiner, Art Unit 1796**

DSM